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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/582,581

04/02/2007

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7590

07/21/2009

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EXAMINER

BECCIA, CHRISTOPHER J

ART UNIT

PAPER NUMBER

3775

MAIL DATE

DELIVERY MODE

07/21/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/582,581	Applicant(s) HASHIMOTO ET AL.	
	Examiner CHRISTOPHER BECCIA	Art Unit 3775	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/12/06, 4/12/07</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over in view of U.S. Patent No. 6,364,885 to *Kilpela et al.* in view of WO02/079108 to *Hench et al.*

As to **Claims 1-6**, *Kilpela* discloses a device for pulling a wire wrapped around a bone (Seen in Figs. 1-4), comprising; a cylindrical main section (4), a first supporting wire (46), an end portion of which is connected to a longitudinal end of the main section (36, See Fig. 5)), a second supporting wire (Opposing end of 46), an end portion of which is connected to the other longitudinal end of the main section (12, See Fig. 10)), a fastener to which the other ends of both the first and the second supporting wires are fastened (32), a wire one end of which is fastened to the fastener (Loop 50, and see Fig. 6) and which forms a circularly curved portion (50), a pulling section (12) which pulls a free end of the cutting wire to reduce a diameter of the circularly curved portion (Col. 4, Lines 16-32), and an adjusting section (4) which adjusts a pulling force applied to the end portion of the second supporting wire (Col. 3, Lines 30-43).

As to **Claim 2**, *Kilpela* discloses a bone cutter wherein the pulling section is configured such that the free end of the cutting wire is pulled by a screw jack (4b)

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including a first threaded rod (2) and a first nut (6) installed in the main section (4) (Col. 4, Lines 25-50).

As to **Claim 3**, *Kilpela* discloses a bone cutter wherein the pulling section includes a cylindrical part (4, Fig. 2) at an upper end portion (1) of which the free end of the cutting wire is fixed (at 2a, Col. 2, Lines 54-60) and a lower end portion of which is disposed to be in contact with an upper portion of the first nut (6).

As to **Claim 4**, *Kilpela* discloses a bone cutter wherein the cylindrical part has a slit (14a in Fig. 10) extending in an axial direction thereof and wherein a rotation preventing part fixed, through the slit, to the first threaded rod is provided (Col. 3, Lines 30-43 and Col. 4, Lines 33-50).

As to **Claim 5**, *Kilpela* discloses a bone cutter wherein the pulling section is provided with a fixing section (12) which fixes the circularly curved portion of the cutting wire where the circularly curved portion comes in contact with a bone (Col. 4, Lines 16-25), the fixing section including a fixture to which the free end of the cutting wire is fixed (Figs. 6 and 7), a third threaded rod which supports the fixture (11a), and a third nut which fixes a position of the third threaded rod (13a) and (Col. 3, Lines 4-15).

As to **Claim 6**, *Kilpela* discloses a bone cutter wherein the adjusting section that adjusts the pulling force applied to the end portion of the second supporting wire includes a second threaded rod and a second nut installed in the main section (2 and 2b in Fig. 2 and Col. 3, Lines 15-43).

Kilpela discloses the claimed invention except for wherein the device is configured for cutting bone, and the wire is a cutting wire.

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Hench discloses a device (Fig. 1) wherein the device is configured for cutting bone (S), and the wire is a cutting wire (W) (Pg. 3, Lines 25-30) in order to prevent fracture, excessive heat, or unwanted movement of the bone to be cut (Pg. 2, Lines 5-10 and Pg. 2, Lines 16-24).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system of *Kilpela* with cutting components of *Hench* in order to prevent fracture, excessive heat, or unwanted movement of the bone to be cut, while using the wire tensioning system to make the cut.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER BECCIA whose telephone number is (571)270-7391. The examiner can normally be reached on M-F 7:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Barrett can be reached on 571-272-4746. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHRISTOPHER BECCIA/
Examiner, Art Unit 3775

/Thomas C. Barrett/
Supervisory Patent Examiner, Art
Unit 3775